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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,419	08/04/2003	Naoya Nakanishi	SNY-037	2557
20374	7590	05/25/2006	EXAMINER	
KUBOVCIK & KUBOVCIK SUITE 710 900 17TH STREET NW WASHINGTON, DC 20006			CREPEAU, JONATHAN	
			ART UNIT	PAPER NUMBER
			1746	

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/633,419

Applicant(s)

NAKANISHI ET AL.

Examiner

Jonathan S. Crepeau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/4/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Shimamura et al (U.S. Patent 7,008,720). The reference teaches a battery comprising a can (3) and having positive and negative terminals (8, 9, respectively). As disclosed in column 8, line 32, one of the terminals has a coating preferably comprising Ni. As disclosed in column 8, line 27, one or both terminals may be made from stainless steel. Since stainless steel of the austenitic type comprises nickel, it is submitted that the subject matter of claims 1 and 2 is at least rendered obvious by Shimamura et al. since both the body of one terminal would comprise nickel and the coating on the opposite polarity terminal would also comprise nickel.

It is noted that this rejection may be obviated by the filing of a certified translation of the priority document.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanafusa et al (U.S. Patent 6,531,246) in view of Yageta et al (U.S. Pre-Grant Publication No. 2002/0146621).

Hanafusa teaches a battery comprising a can (1) and having positive and negative terminals (21, 20). The battery can may be made of aluminum (see col. 8, line 26) or stainless steel (col. 6, line 23). As shown in Figure 7, the terminal 21 is in contact with a coating layer comprising the can material (5). As shown in Figure 15, the terminal 20 is coated with a material (17b) comprising nickel, copper, or aluminum (see col. 11, line 45).

The reference does not expressly teach the base material composition of the terminals as recited in claims 1, 3, and 5.

Yageta et al. is directed to a secondary battery. In paragraph [0059], the reference teaches the following:

**[0059]** There is no particular limitation to available materials for the positive electrode lead terminal 31 and the negative electrode lead terminal 32. The known materials are

available. For example, aluminum or aluminum alloys are available for the positive electrode lead terminal 31, whilst nickel, copper and alloys thereof are also available for the negative electrode lead terminal 32.

Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made because the artisan would be motivated to use aluminum as the positive terminal and copper or nickel as the negative terminal of Hanafusa et al. The disclosure of Yageta et al. indicates that these are suitable materials for use as positive and negative terminals. The selection of a known material based on its suitability for its intended use has generally been held to be *prima facie* obvious (MPEP §2144.07). Taking terminal 21 of Hanafusa to be the positive terminal and terminal 20 to be the negative terminal, with regard to claim 3, this would result in an aluminum battery can, a nickel or copper negative terminal (20), and a coating layer (17b) of aluminum (see Fig. 15). Regarding claim 5, the can may be stainless steel, the positive terminal (21) would be aluminum, and the coating layer on the positive terminal (21) would also be stainless steel (see Fig. 7). As such, the subject matter of claims 1-5 would be rendered obvious.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Crepeau whose telephone number is (571) 272-1299. The examiner can normally be reached Monday-Friday from 9:30 AM - 6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan, can be reached at (571) 272-1292. The phone number for the

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organization where this application or proceeding is assigned is (571) 272-1700. Documents may be faxed to the central fax server at (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jonathan Crepeau  
Primary Examiner  
Art Unit 1746  
May 23, 2006